

SPECIAL

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INTERNATIONAL APPLICATION PAPERS IN THE APPLICATION FILE :

- International Application (RECORD COPY)
- Article 19 Amendments
- PCT/IPEA/409 IPER : EP JP SE AU
 US FR CN ES RU AT KR _____
- Annexes to 409
- PCT/ISA/237 : EP JP SE AU
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 PCT/IPEA/409 or PCT/ISA/237 was NOT AVAILABLE at the time of paralegal review

- PCT/IB/306
- Request form PCT/RO/101
- PCT/ISA/210 - Search Report : EP JP SE AU
 US FR CN ES RU AT KR _____ NONE
- Search Report References
- Priority Document (s) No. 2
 N/A
 Priority Document was NOT AVAILABLE at the time of paralegal review
- Other: 304,323

RECEIPTS FROM THE APPLICANT (other than checked above) :

- Basic National Fee (or authorization to charge) 43/18
- Description Claims Abstract
- Drawing Figure(s) - (# of drwgs. 0)
- Translation of Article 19 Amendments
 entered not entered :
 not a page for page substitution
 replaced by Article 34 Amendment
- Annexes to 409
 entered not entered :
 not a page for page substitution
 no translation other: _____
- Application Data Sheet
- Power of Attorney
- Change of Address

- Preliminary Amendment(s) Filed on :
 1. same as 371 request date 2. _____ 3. _____
- Information Disclosure Statement(s) Filed on :
 1. same as 371 request date 2. 30 Oct 2006 3. _____
- Assignment Document (forwarded to Assignment Branch) 08 Jan 09
- Assignee Statement Under 37 CFR 3.73(b)
- Assignee PG Publication Notice
- Substitute-Specification Filed on :
 1. same as 371 request date 2. _____ 3. _____
- Verified Small Status Statement
- Oath/ Declaration (executed) 14 Nov 08
- Oath/ Declaration unsigned no citizenship other
- DNA Diskette Sequence Listing
- Other: Extension (5 months) 14 Nov 08

NOTES : I.A. used as Specification Other :

35 U.S.C. 371 - Receipt of Request (PTO-1390)

Date Acceptable Oath/ Declaration Received

Date of Completion of requirements under 35 U.S.C. 371

Date of Completion of DO/ EO 903 - Notification of Acceptance

Date of Completion of DO/ EO 905 - Notification of Missing Requirements

Date of Completion of DO/ EO 909 - Notification of Abandonment

Date of Completion of DO/ EO 916 - Notification of Defective Response

Date of Completion of DO/ EO 922 - Notification to Comply w/ Requirements for Patent

Applications Containing Nucleotide and/or Amino Acid Sequence Disclosures

Date of Completion of DO/ EO 923

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nonsigning inventor was provided. An executed declaration meeting the requirements of section 409.03(a) of the MPEP and 37 CFR 1.497(a) and (b) was provided.

Regarding item (2), petitioners state that Dr. Ouzman has been unwilling to sign documents for the above-identified application without any payment from Biovitrium AB. See Thornton Decl. at ¶ 2 -3. Petitioners provided a copy of a letter dated 09 October 2007 indicating that a complete copy of the subject application (denoted as BV-1087US) was sent to the nonsigning inventor (exhibit A). Mr. Thornton confirms that Dr. Ouzman received these documents.¹ See Thornton Decl. at ¶ 2. Mr. Thornton states that "Dr. Ourzman has to date been unwilling to sign the declaration without payment of a fee." See Thornton Decl. at ¶ 3. This conduct is sufficient to constitute a refusal to join as contemplated by section 409.03(d)(II) of the MPEP.

Accordingly, all the requirements of 37 CFR 1.47(a) are complete.

CONCLUSION

Applicants' petition under 37 CFR 1.47(a) is **GRANTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 03 December 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 14 November 2008.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record and will be published in the Official Gazette.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.

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¹ The email dated 19 October 2007 indicates that Ms. Ouzman received a copy of patent number BV-1039US by email, not BV-1087US. Nonetheless, the statement by Mr. Thornton that Dr. Ouzman received the documents dated 09 October 2007 is sufficient to ensure receipt of the subject application.

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